REMARKS

Reconsideration is requested.

Claims 1-19 have been canceled, without prejudice.

Claims 38 has been amended to obviate the Section 112, second paragraph, rejection of the same. Withdrawal of the rejection is requested.

The Section 112, first paragraph "written description", rejection of claims 20-38 is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following comments.

Claim 20 has been corrected above. The Examiner's helpful comment in this regard is noted with appreciation.

The recitation of "*not from the same gene*" is supported by the specification, for example, the nucleic acid of interest and the first promoter in the example are not from the same gene : the nucleic acid of interest is the tyrosine hydroxylase coding sequence and the first promoter is from the PGK gene. Furthermore, the specification indicates a list of nucleic acids of interest (pages 12-16) and a list of promoters (page 6, lines 6-19) among which the promoter of genes PGK, DHFR, EF1a, GFAP; NSE, beta-actine, beta-globine, and MHCa. Finally, the specification does not require in a specific example that a nucleic acid of interest and a first promoter be from the same gene.

The claims are submitted to be supported by an adequate written description and withdrawal of the Section 112, first paragraph, rejection of claims 20-38 is requested.

The Section 103 rejection of claims 28-33, 35-36 and 38 over Bujard (U.S. Patent No. 5,650,298) in view of Corti (NeuroReport 1996; 7:1655-1659) is traversed. The Section 103 rejection of claims 28-38 over Bujard, Corti and Hu (Cancer Research

1997; 57:3339-3343), is also traversed. Reconsideration and withdrawal of the rejections are requested in view of the following distinguishing comments.

The applicants understand the Examiner to believe that Bujard et al teaches all the elements of claim 28, except the UMS, the 1-10 sequences of the tet-responsive elements (tetOP) in the second promoter which is a minimal CMV promoter and that an isolated nerve cell can contain the claimed nucleic acid molecule. The Examiner is understood to believe that the secondary references provide these missing elements and that it would have allegedly been obvious to have made the claimed invention from the combined teaching of the cited art.

The applicants respectfully disagree with the Examiner's assessment of the cited art. The applicants believe that Bujard et al does not teach a tetracycline-regulated system (tTA) under the control of the promoter of the PGK gene but teaches a selection marker (the neoR gene) under the control of the promoter of the PGK gene (see figure 13 of Bujard et al). None of the cited documents teaches or suggests a tetracycline-regulated system (tTA) under the control of the promoter of the PGK gene.

Moreover, Corti et al is not believed to be citable art against the present application as the reference is believed to have an effective date of April 1999 whereas the present application claims priority to applications filed in November 1998 and March 1999. The application filed March 1999 is a U.S. Provisional application which should be available in English such that an English language translation of the French priority document should not be required. The Examiner is requested to advise the undersigned if otherwise however.

The claims are submitted to be patentable over the combination of cited art. Withdrawal of the Section 103 rejections are requested.

The Examiner is requested to contact the undersigned in the event anything further is required to place the application in condition for allowance

Respectfully submitted,

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